

### **THE OFFICE ACTION**

In the Office Action issued on January 19, 2006, the Examiner rejected claim 13 under 35 U.S.C. §112, second paragraph as being indefinite. The Examiner also rejected claims 1, 3-5, 7, 9, 11-12, 15 and 30 under 35 U.S.C. §102(a) as being anticipated by the article "Swimming Towards the Dark: A Photophobic light-driven Elastomeric Swimmer" by Camacho-Lopez et al., The First World Congress on Biomimetrics & Artificial Muscles ("Comacho-Lopez"). The Examiner also rejected claims 1, 3-5, 7-9, 11-12, 15, 17-22, and 29-30 under 35 U.S.C. §102(a) as being anticipated by the article "Crystal Swims Like a Fish to Escape From Laser Light" by Jamieson in New Scientist ("Jamieson"). The Examiner also rejected claims 2, 13, 23-28 and 31 under 35 U.S.C. §103(a) as being obvious over Jamieson in view of "A New Opto-Mechanical Effect in Solids", Physical Review Letters ("Finkelmann"). The Examiner indicated that claims 6, 10, 14 and 16 contained allowable subject matter.

### **REMARKS**

Applicants have carefully considered the Office Action issued on January 19, 2006. Applicants respectfully request reconsideration of the application in light of the above amendments and the following comments. Claims 1-31 are pending in the application.

#### **A. The Examiner's Objection to Claim 13 Has Been Addressed**

In the Office Action, the Examiner rejected claim 13 as being indefinite for not defining "X" in the formula. An amendment has been made to claims 13 and similar claim 28 reciting that X is an alkyl group. Support for this amendment is found on page 8 of the application. In light of this amendment, Applicants respectfully request withdrawal of this rejection.

#### **B. The Present Claims are Not Anticipated by Comacho-Lopez or Jamieson**

The Examiner also rejected claims 1, 3-5, 7, 9, 11-12, 15 and 30 under 35 U.S.C. §102(a) as being anticipated by Comacho-Lopez and claims 1, 3-5, 7-9, 11-12, 15, 17-22, and 29-30 by Jamieson.

Submitted herewith is a 37 C.F.R. §1.131 declaration of the inventors of the

present invention. The declaration is submitted to evidence a date of conception and reduction to practice of the present invention in the United States prior to the effective date of Comacho-Lopez, December 10, 2002. In light of this, the applicant submits that neither Comacho-Lopez nor Jamieson (which has a later effective date) is a valid §102 reference and requests withdrawal of the above rejections.

**B. The Present Claims are Not Rendered Obvious by Comacho-Lopez in View of Finkelmann**

Comacho-Lopez has been removed as a valid prior art reference in light of the §1.131 declaration filed herewith. Applicants submit that Finkelmann alone does not render the claims obvious. Thus, Applicants request withdrawal of this rejection.

**CONCLUSION**

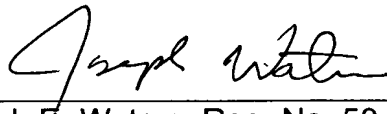
In view of the foregoing comments, Applicants submit that claims 1-31 are in condition for allowance. Applicants respectfully request early notification of such allowance. Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned to attempt to resolve any such issues.

If any fee is due in conjunction with the filing of this response, Applicants authorize deduction of that fee from Deposit Account 06-0308.

Respectfully submitted,

**FAY, SHARPE, FAGAN,  
MINNICH & MCKEE, LLP**

Date: June 6, 2006

  
\_\_\_\_\_  
Joseph E. Waters, Reg. No. 50,427  
1100 Superior Avenue  
Seventh Floor  
Cleveland, OH 44114-2518  
216/861-5582

Attachments: §1.131 Declaration and Appendix A